GOVERNMENT OF INDIA
CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION
LOK SABHA

STARRED QUESTION NO:171
ANSWERED ON:14.03.2017
Hotel Service Charges
Misra Shri Pinaki;Panda Shri Baijayant "Jay"

Will the Minister of CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION be pleased to state:

(a) whether inspite of the advisory issued by the Government to desist from levying service charges in the range of 5%- 20% in the food bill as it is an unfair trade practice, majority of hoteliers continue to levy service charges and if so, the corrective steps taken by the Government to ensure that the hotel industry complegies with the advisory;
(b) whether the industry associations have worked out a proposal and submitted the same to Union Government which would ensure the best interests of the consumers and if so, the details thereof;
(c) the nature of the rule under which the service tax is levied by the Hotels/ Restaurants on service and sale of their products to the customers; and
(d) the present status of the service tax levied by the Hotels and Restaurants?

Answer

THE MINISTER OF
CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION
(SHRI RAM VILAS PASWAN)

(a) to (d) : A Statement is laid on the Table of the House.

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STATEMENT REFERRED IN REPLY TO PARTS (a) TO (d) OF LOK SABHA STARRED QUESTION NO.*171 FOR 14.03.2017 REGARDING HOTEL SERVICE CHARGES.

(a) & (b):The Ministry examined the matter of compulsory charging of service charges by hotels and restaurants, and issued an advisory in December 2016 to the State Governments. The advisory aims to sensitize the hotels and restaurants in the state regarding the provisions of the Consumer Protection Act, 1986 relating to unfair trade practices, and also explains the legal options available to the aggrieved consumers to approach Consumer Fora of appropriate jurisdiction. States were requested for dissemination of information in this regard. After issuance of the advisory, some more complaints have been received through National Consumer Helpline, on which the complainants were provided with guidance on approaching consumer fora of appropriate jurisdiction to redress their disputes. The Ministry subsequently held a meeting with the Hotel and Restaurant Associations in January 2017, to discuss the issue and advised them that they should come up with a proposal for resolution of the issue. No proposal has yet been received from the Hotel and Restaurants Associations.

(c) & (d) : Service Tax is levied on Services provided by Hotels/Restaurants as per the provisions of section 66B read with section 66D of the Finance Act, 1994, at the rate of 14% on the value of the services. Under Service Tax (Determination of Value) Rules, 2012, the value of service portion in any activity wherein goods being food or any other article of human consumption or any drink (whether or not intoxicating) is supplied in any manner as a part of the activity at a restaurant or as outdoor catering has been specified as percentage of the total amount charged for such supply, in terms of the following table.

S.No. Description Percentage of the total amount
1. Service Portion in an activity wherein goods, being food or any other article of human consumption or any drink(whether or not intoxicating) is supplied in any manner as a part of the activity, at a restaurant 40
2. Service portion in outdoor catering wherein goods, being food or any other article of human consumption or any drink (whether or not intoxicating) is supplied in any manner as a part of such outdoor catering 60

Further, vide notification no. 25/2012-ST, dated 20.6.2012 (as amended), exemption from service tax has been granted for services provided in relation to serving of food or beverages.

â€¢ by a restaurant, eating joint or a mess, other than those having the facility of air-conditioning or central air-heating in any part of the establishment, at any time during the year;
â€¢ by a canteen maintained in a factory covered under the Factories Act, 1948(63 of 1948), having the facility of air-conditioning or central air-heating at any time during the year.

In addition to the above, Swachh Bharat Cess @0.5%and KrishiKalyan Cess @ 0.5% is also levied on the value of the taxable services.

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